

1629. *March 13.* MERSHALL *against* The LAIRD of DRUMKILBO.

ONE being presented to the chaplainry of Dunkeld, pursues the Laird of Drumkilbo for £100, addebted to the said chaplainry, furth of his lands of Le-thindie, before the commissary of Dunkeld, and obtains decreet for null defence, for three years' duty; and having charged for other years after the decreet, Drumkilbo suspends, and alleges, That the said pursuer could not claim the said yearly annual furth of his lands, except he either produced a mortification thereof, or at least alleged, that he, or his predecessors, chaplains of the said chaplainry, had been thirty years in possession of the same since the Reformation, or ten years before the Reformation. To the which the chaplain opponed his decreet. The Lords would not respect the decreet; but ordained the parties to dispute their right, as if that decreet had not been obtained.

*2d MS. Page 190.*

1629. *March 18.* CANT *against* EDGAR;

OR,

1627. *December 12.* FALCONER *against* BEATTIE.

IN an action pursued by Cant against Edgar, it was alleged by the defender, That the debt contained in his father's bond, which was heritable, and for the which he was pursued as heir to his father, by this pursuer, heir to the assignee, could not appertain to the assignee's heir, but to his executors; because, although the bond be heritable, yet the assignation made it moveable, and, consequently, to appertain to the executors. The Lords repelled the allegiance, and found that the assignation did not alter the nature of the bond.

*2d MS. Page 10.*

1629. *June 17.*

A. B. *against* TURNER.

ONE Turner is pursued to remove from a room, whereof he had tack set to him by one called Dumbar, at the instance of A. B., who had obtained another tack from the said Dumbar, the entry whereof was at the issue of the said Turner's tack. It was alleged by Turner, That he bruiked as having right from a liferenter, who was not called. It was replied, That he could not clothe himself with another right, to introvert the possession of him that set a tack to him, by virtue whereof he had bruiked the lands till his tack was expired; but must now give over the possession which he had received from the setter to the pursuer, who now was become in place of the setter, by virtue of a new tack set to him. The Lords repelled the exception in respect of the reply.

*2d MS. Page 190.*

1629. *July 23.* MR ARCHIBALD MONCREIFF *against* The LAIRD of BALNAGOWN and His VASSALS.

IN the same action, [*See Moncreiff against Balnagown, &c. 11th July*